UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
MIDLAND/ODESSA DIVISION

VIRTAMOVE, CORP, Plaintiff, v. AMAZON.COM, INC., AMAZON.COM SERVICES LLC, and AMAZON WEB SERVICES, INC., Defendants.	Civil Action No. 7:24-cv-30-ADA-DTG

RESPONSE OF DEFENDANT AMAZON WEB SERVICES, INC.
TO PLAINTIFF'S ADDITIONAL NOTICE OF SUPPLEMENTAL AUTHORITY

The decision VirtaMove submitted with its additional notice of supplemental authority—*Red Rock Analytics LLC v. Apple Inc.*, Case No. 6:21-cv-00346-ADA (W.D. Tex. Feb. 12, 2025) (Dkt. 99-1)—does not support the pending objections to Judge Gilliland's transfer order here.

First, VirtaMove argues that *Red Rock* shows clear error in Judge Gilliland's analysis of the willing-witness factor. According to VirtaMove, Judge Gilliland erred by considering witnesses who are "relevant" instead of confining his analysis to witnesses who "will actually materialize at trial." (Dkt. 99 at 1.) But merely noting the existence of relevant witnesses in California, as Judge Gilliland did in his transfer order, is not error. Like Judge Gilliland here, *Red Rock* recognized that a defendant had identified "relevant witnesses" in California. (Dkt. 99-1 at 10.) Although *Red Rock* gave less weight to witnesses whom the Court deemed unlikely to testify there, Judge Gilliland was not required to discount Amazon's witnesses here because Amazon gave specific reasons why relevant witnesses it identified *are* expected to testify. (*E.g.*, Dkt. 31 at 10, 12.) Amazon also explained why VirtaMove's identified witnesses will *not* testify. (*E.g.*, Dkt. 72 at 2-3.) Thus, Judge Gilliland was correct to weigh the willing-witness factor in Amazon's favor. VirtaMove shows no clear error in Judge Gilliland's analysis of this factor.

Second, VirtaMove argues that *Red Rock* "rigidly applied the 100-mile rule" and thereby showed that less-rigid Federal Circuit precedent has been overruled. (Dkt. 99 at 1-2.) But *Red Rock* did no such thing. *Red Rock* expressly applied the very Federal Circuit precedent that VirtaMove claims was overruled. (*Compare* Dkt. 66 at 4 (arguing that *In re Apple* and *In re Google* were overruled) *with* Dkt. 99-1 at 10 (*Red Rock* applying *In re Apple* and *In re Google*).) In doing so, *Red Rock* considered various circumstances beyond distance alone, such as time and cost. (Dkt. 99-1 at 10-11.) Thus, *Red Rock* did not apply the rigid rule that VirtaMove proposes.

VirtaMove's arguments based on *Red Rock* are meritless.

March 11, 2025

Respectfully submitted,

By: */s/ Jeremy A. Anapol*

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CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2025, all counsel of record who are deemed to have consented to electronic service were served with a copy of the foregoing via the Court's CM/ECF System.

/s/ Jeremy A. Anapol
Jeremy A. Anapol